



County of Erie

JOEL A. GIAMBRA
COUNTY EXECUTIVE

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ERIE COUNTY LEGISLATURE

2002 OCT 18 P 1:01

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October 18, 2002

VIA HAND DELIVERY

Ms. Laurie Manzella, Clerk
Erie County Legislature
25 Delaware Avenue, 7th Floor
Buffalo, New York 14202

Re: Local Law Intro. No. 8-2002

Dear Ms. Manzella:

Pursuant to Municipal Home Rule Law Section 10, a Public Hearing was held on Friday, October 4, 2002 concerning Local Law Intro. No. 8-2002 (hereinafter the "Voluntary Pesticide Notification Registry Local Law"), due notice thereof having been published in the official newspapers of the County of Erie.

Local Law Intro. No. 8-2002 had been adopted by the Erie County Legislature on September 19, 2002 and presented to me as Erie County Executive on September 20, 2002.

I have read the transcript of the Public Hearing, conducted in my absence by Deputy County Executive Carl J. Calabrese, and discussed same with him. I have also reviewed written comments received by my office, and a legal opinion given to me by Erie County Attorney Frederick A. Wolf to the effect that said local law is invalid and unenforceable since it is inconsistent with the New York Environmental Conservation Law. After due deliberation thereon, I, Joel A. Giambra, County Executive of Erie County, do hereby DISAPPROVE and VETO Local Law Intro. No. 8-2202, a copy of which is attached hereto, this 17TH day of October 2002.

To accomplish this result, pursuant to Section 205 of the Erie County Charter and pursuant to the New York Municipal Home Rule Law, I am returning to you herewith

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Local Law Intro. No. 8-2002 with the following objections which form the basis for my veto:

1. The Voluntary Pesticide Notification Registry Local Law is invalid and unenforceable because the State legislature has restricted the adoption of such a local law by local municipalities, including counties, in the State of New York.
2. The New York State Environmental Conservation Law (ECL) has pre-empted local regulation of pesticide use.
3. The amendments made by the State legislature to the ECL concerning lawn applications of pesticides authorizes a county to adopt a local law on this matter only if that county's local law is comprised totally of and consistent with all of the ECL's provisions regarding the commercial application of pesticides in their entirety and without exception. The Voluntary Pesticide Notification Registry Local Law fails to follow these mandated requirements of the ECL.

Having reviewed the State's so called opt in legislation and various voluntary notification programs, it is my firm belief that a better neighborhood notification program can be created than those presently available. In fact, as many of you know The Erie County Department of Environment and Planning, the Erie County Environmental Management Council and others have been working toward a comprehensive notification program that seeks to incorporate the best provisions of the potential programs that currently exist under the ECL and those which have been most recently proposed by the majority of the Erie County Legislature. I encourage the Erie County Legislature to work with these groups, conduct hearings if necessary and meet with all interested parties so as to develop a program that will ensure that every resident of Erie County who wishes to be notified of pesticide spraying near his or her property is notified; that provides for comprehensive outreach and education concerning the dangers and benefits of pesticide use; that provides a strict and verifiable enforcement mechanism that is efficient and economically sensible and that provides for ongoing and accurate monitoring to ensure that those who wish to be notified of pending pesticide applications are so notified and those that fail to give such notice are held accountable.

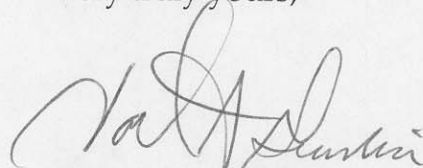
To achieve this goal the Erie County Legislature may want to encourage the State legislature: (i) to amend the Environmental Conservation Law to provide for a voluntary registry for notification of pesticide applications which would satisfy safety concerns and be economically less burdensome to local business which apply commercial pesticides; or (ii) adopt legislation which would permit counties to adopt individual local laws which they deem appropriate to protect the interest and well being of their residents.

As required by Section 205 of the Erie County Charter please present Local Law Intro. No. 8-2002 together with this letter containing my objections to and veto of the

Voluntary Pesticide Notification Registry Local law to the Erie County Legislature at its next regular meeting.

Thank you for your anticipated cooperation.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Joel A. Giambra", written in a cursive style.

JOEL A. GIAMBRA
Erie County Executive

cc: Frederick A. Wolf, Esq., Erie County Attorney